

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL WRIT PETITION NO. 1756 OF 2003

Asstt. Commissioner of Customs .. Petitioner

Vs.

State of Maharashtra .. Respondent

Mr. D.A. Nalawade for Applicant.

Mrs. M.M. Deshmukh, PP for State.

CORAM: S.K. SHAH, J.

DATE : 20th June, 2006.

P.C.

The Writ Petition is filed by the Asstt. Commissioner of Customs, Prosecution Cell, challenging the order passed by the Addl. Chief Metropolitan Magistrate whereby the Magistrate directed the petitioner to handover the property to the police. Against that order the revision was filed before the Addl. Sessions Judge who dismissed the revision application.

2. The petitioner on 16/4/2002 on suspicion intercepted one Jayesh Vinod Ray Masharu at Sahar Airport and recovered assorted foreign currency equivalent to Indian Rs. 50,54,659/-. The same was seized under panchnama.

3. The learned counsel for the petitioner submits that the entire foreign currency has been deposited with the Central Government and therefore they are unable to produce the said foreign currency as directed by the learned Magistrate.

4. The offence that was investigated and about which the charge sheet is filed before the Magistrate is the one under section 420, 465, 467, 468, 471, 120-B and 34 of IPC.

5. The learned counsel for the State of Maharashtra and Respondent states that in view of the fact that foreign currency has already been deposited with the Central Government it would suffice if the copy of the panchnama giving numbers of the foreign currency notes would be sufficient for the purpose of investigation and the prosecution. The learned counsel for the petitioner submits that the panchnama giving details of the numbers of the foreign currency notes is available and the same can be made available to the Respondent. In view of this the writ petition is disposed of with the direction to the petitioners to supply the copy of the panchnama which mentions the details of the numbers of the foreign currency notes, to the Respondent instead of furnishing the attached property as directed by the learned Magistrate. The writ petition stands disposed of. Learned counsel for the Respondent prays for liberty to apply to the Central Government, in case the currency notes are necessary for the prosecution. Liberty is granted.

(S. K. SHAH, J)